

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of WELLS, Minors.

UNPUBLISHED
November 19, 2013

No. 316963
Barry Circuit Court
Family Division
LC No. 11-008313-NA

Before: FITZGERALD, P.J., and MARKEY and BECKERING, JJ.

PER CURIAM.

Respondent mother appeals by right the trial court order terminating her parental rights to her two minor children under MCL 712A.19b(3)(c)(i) and (g). We affirm.

The trial court did not clearly err in finding the statutory grounds were established by clear and convincing evidence. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The children were removed from respondent in part because of her substance abuse. There was evidence that respondent used substances during pregnancy and while one of the children was in her care and that methamphetamine was made in the home. After removal, respondent participated in counseling to address substance abuse and participated in random drug screens. She had negative screens for several months, and the children were returned to her care. But three months after return of their return, respondent tested positive for methamphetamines. There was evidence that it was unlikely that respondent could maintain sobriety in the long run even if she were able to do so for a six to nine month period. On this record, the trial court did not clearly err in finding clear and convincing evidence that the issue of substance abuse, which led to adjudication, continued to exist and that there was no reasonable likelihood that it would be rectified within a reasonable time considering the ages of the children. MCL 712A.19b(3)(c)(i); *In re Trejo Minors*, 462 Mich at 356-357.

Similarly, termination was also proper pursuant to MCL 712A.19b(3)(g). Respondent did not previously provide proper care and custody because she used controlled substances and methamphetamine was made in the home. She continued to be unable to refrain from using controlled substances despite being offered counseling and drug screens, even though her parental rights were in jeopardy. Additionally, her housing was unstable. The trial court did not clearly err in finding clear and convincing evidence that respondent did not provide proper care and custody for the children, and there was no reasonable expectation that she would be able to do so within a reasonable time considering the ages of the children. MCL 712A.19b(3)(g); *In re Trejo Minors*, 462 Mich at 356-357.

On appeal, respondent argues there was little evidence that the children could not be returned within a reasonable time. We disagree. This case was open for 21 months. In that time, respondent failed to maintain sobriety without relapse. There was evidence that the probability of her maintaining sobriety was low and that, even if she were sober for six to nine months, there was a 50 percent chance that she would relapse. There was no indication that respondent mother would eliminate the barriers to reunification or be able to provide proper care and custody within a reasonable time considering the ages of the children, the 21 months the case had been open, respondent's history of relapse, and the unlikelihood of her maintaining sobriety.

The evidence also established that termination of respondent's parental rights was in the children's best interests. MCL 712A.19b(5). A child's need for stability and permanency may be considered in determining best interests. *In re VanDalen*, 293 Mich App 120, 141-142; 809 NW2d 412 (2011). The children needed stability. They had spent significant portions of their lives in care and were unsuccessfully returned to respondent once. Even when she had the children in her care, respondent could not remain substance free, despite being offered substance abuse counseling, an in home therapist, and drug screens. Respondent was unable to place the safety and care of her children over her substance addictions. On this record, the trial court did not clearly err when it found termination was in the best interests of the children. *Id.*; MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich at 356-357.

We affirm.

/s/ E. Thomas Fitzgerald
/s/ Jane E. Markey
/s/ Jane M. Beckering